



COUNCIL

FOR MILITARY SPOUSE CLUBS

Maintaining your Nonprofit (Companion Document to the Maintaining your 501c3 Course)

A brief overview to help Clubs understand the requirements – be sure to check your local requirements:

A few things to remember upfront:

1. Just because you think you don't pay taxes because you are a nonprofit, it does NOT mean you don't have to file federal and state taxes. You must file every year to maintain your nonprofit status.
2. Just because you are operating on a Federal Installation, does not mean you don't have to register with the state where you are located.
3. Just because the previous state/installation you lived in didn't require something does NOT mean your current state/installation has the same rules.
4. Just because the DOD policy states something, ALWAYS check out your service regulations – AFI, Army Regs, Navy Regs, Marine Corps, etc. on the rules and requirements for operating your NFE. It is possible that your Branch of Service has a stricter policy that must be followed by nonprofits/Private Organization/non-Federal Entities (NFE). You are required to follow the policies stated at your current location.

Step 1 (Governing Documents):

Locally:

- a. If you already have a current set of Articles of Incorporation or Constitution and a set of Bylaws, check this link to make sure you have everything included that is required to be included by Federal and Installation nonprofit law. *(add Const and By-laws link here)*.
- b. Double check to make sure they have been reviewed by a committee from your organization in the last two years. DOD policy requires that the NFE reviews these documents each year and submit them bi-annually to the Private Organization office on your installation. If it has not been reviewed within the last two years, you should form a committee and do it right away.
- c. Your Private Organization office also requires you to update your board roster with them whenever there is a change.

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- d. You must have bonding insurance for anyone who routinely deals with a monthly cash flow over \$500.00. This tends to be the Treasurer, President and the VP who oversees the philanthropic arm of your club, along with the Ways and Means Director and any employees you may have at your Thrift Shop/Gift Shop – but positions/titles will vary from Organization to Organization.
- e. Your Club is also required to have liability insurance to protect the club from any accidents or unforeseen circumstances. Your installation should have guidelines on this requirement.

Federal:

- a. Make sure you know your Federal EIN number and have a copy of your Eligibility Determination Letter from the IRS. This letter shows proof of your nonprofit status.
- b. Only 501c3 organizations can offer tax deductible receipts to donors.
- c. All other nonprofit classifications are welcome to take donations and are still nonprofits, but donations are NOT tax deductible for the Donor.
- d. Double check that your organization is in good standing with the IRS. Go to their website search tool with your EIN number and you can check to see that the annual filings are up to date.

State:

- a. Make sure your organization is registered with your state. Unfortunately, every state is different, so it will take a little research to find out what is required for your type of organization. It will be listed somewhere on your state's government website.
- b. Search under the Secretary of State, Secretary of Commerce, or Department of Treasury, etc. to find the information you need to be compliant with state laws. Each state uses a different department for tracking nonprofits, so you will need to look for the information.
- c. Many states have different requirements based on the amount of money you take in through fundraising, or the mission of your organization. You will need your Federal EIN number to register with your state.

Step 2 (Financial):

Locally:

- a. Make sure you have a bank account that has your EIN number. NP/PO/NFE should report their financial status to their board each month and have these statements approved by the board.
- b. As a 501c3 Public Charity, your mission must be to support the public and your board cannot financially benefit from the work you do as a nonprofit. **Some examples to explain that comment are: Your board members or their family members cannot receive a scholarship from your organization. Your board members or their family members cannot request/receive a grant from your organization.*
- c. A good rule to follow is to have dual entry accounting or separate bank accounts. One for your operating funds (running your membership) and one for your Welfare (Community Giving/philanthropic funds). Money received from your membership at your events will fund your operating account, and money raised and donated to the public will come from your Welfare account. Money raised from the public (Welfare) needs to always be used to support
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that public. Money raised from the membership can fund the membership events but can also be “donated” to the Welfare account at the end of your fiscal year.

- d. Make sure you get your audits done as required by your Service Regulations. Many are having a hard time finding an auditor who will take on your accounts for a price that you can afford. If possible, start looking for an auditor as early as possible and ask them how they would like you to do your books for the year. They will probably have a lower fee if you follow their recommendations because it will be faster for them to do the audit at the end of the year.
- e. You must turn in your financial statements at least annually, but some Private Org offices will require you to turn them in as you vote them in every month. Know what your installation requires.

Federal:

- a. Federal law (FINRA) requires nonprofits to track their in-kind donations as well as their monetary donations. Be sure to have a way to annotate these donations. (ie your thrift shop allows E5 and below to come in monthly and pick out up to 5 items for free. You need to track the value of those items and add that to your donation amount).
- b. Double check in advance of filing your annual taxes what is required to put in those filings.
 - a. Know that orgs who make under \$50,000 are only required to file an electronic postcard to show the Federal Govt that you are still operating in the same manner as originally approved. That way you can track this each month so when the time comes to file, you will already have things organized in a way to make that process easier.
 - b. If you donate a certain amount to a specific person or organization, your Tax form may require specific information about that donation. Keep good records so this is not a problem at Tax time.
- c. If you have employees, there are even more rules that need to be filed. Please research these requirements.
- d. Double check with the IRS to find out when your fiscal year ends. Many clubs have set it up to end in June rather than a traditional calendar year. Most filings must be complete within 3 to 4 months of the end of your year. This may mean one year’s board will do ½ of the work and the next year’s board will have to finish the process. Don’t allow this ball to get dropped!

State:

- a. As mentioned, state law varies considerably from state to state. Please check your requirements and follow all regulations. Many states will ask you to renew your registration each year giving them the basic information about your organization and proving that you are still operating in the state.
- b. Be aware, some states will also require you to pay sales and use tax if you sell anything. Don’t assume this is not required, double check!
- c. If you have employees, each state may have different rules and regulations that must be followed and filed. Be sure you know what you must do to remain compliant.

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Step 3 (Execution):

Locally:

- a. You need to hold board meetings at least quarterly and must have a quorum to have a vote. The frequency of your meetings and the number needed for a quorum will be listed in your bylaws. This document is what is on file with your installation, so those are the rules you must follow.
- b. A copy of your minutes should be turned into your Private Organization office for their files after they have been approved by your board (usually the following month). When minutes are written, they should be distributed for all present to read through them, and then they should be voted in “as written” or voted in with discussed and “approved changes.” Even if you do not hold a meeting, it is a good practice to write up minutes for that month that say no meeting was held due to _____ (summer vacation, etc.) and have on file so it is known why there are no minutes from that month.
- c. You should save your minutes for multiple years so that decisions made can be looked up for understanding and guidance of future decisions.

Federal:

- a. To maintain your nonprofit status, you must hold meetings and have a board of directors. Federally, the requirement is to have at least 3 people on your board: President, Secretary and Treasurer. States may have a different requirement, but if you find that you do not have enough people to run your organization and are at risk of dissolving, double check what is needed to stay afloat long enough to recruit more people.
- b. If you have 501c3 status, the goal should always be to find a way to remain active so that you do not need to go through the steps to dissolve your nonprofit and then have to reapply later on. There is a large fee to reapply, so maintaining your status is much better than starting over!

State:

- a. If you are holding a fundraiser, you may need your state’s approval for solicitation (asking for donations from businesses, donors, etc.)
- b. Keep in mind that if you are soliciting donations from neighboring states (like those installations that are on the border between two states), you may need to be registered in both states. Check the rules in all the states where you are requesting.
- c. If you have a Ways and Means table at your events, you may need to pay sales tax to your state. Again, this varies, but it is something to check on.
- d. The same applies for any fundraising you may do where products are sold. It is possible that organizations making a profit on an item they sell may need to collect and then pay the state sales tax on each item.
- e. When setting up a fundraiser, be sure you understand the rules of the state regarding Gambling/ Games of Chance. Some allow this type of event if you are using “fake money”, but some states are stricter about what is allowed. You may find that you can host an event of this type on the installation because it is federal land, but you can’t move your annual “Monte Carlo Night” off

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the installation to try to get more people to attend because the state does not allow this type of fundraising.

Step 4 (Wrap Up):

Locally:

- a. Follow your Governing documents exactly as they are written. If they are inconsistent with how you as a board would like to function, go through the steps to amend your documents. Do not just do things how you think you should – go through the steps to CHANGE the documents!
- b. Make sure your governing documents do not contradict themselves. (A common area of disconnect with the number of people needed for a quorum or to pass a vote. This information tends to be listed in more than one place and needs to be consistent throughout the documents.)
- c. Know and follow the requirements to maintain the ability to be a Private Organization on your installation. Have your new Executive board meet with the installation leadership at the beginning of each year to form an open professional connection.
- d. Know and follow the regulations of your Branch of Service and the DOD. Sometimes these are open to interpretation, so if there is a disconnect on what each side believes to be correct, set up a meeting with the installation to make sure both parties understand the intent of the event/issue.

Federal:

- a. File your taxes every year, on time, without fail. Even if you don't pay taxes as a nonprofit, you are still required to prove to the IRS that you are still operating in the manner in which you have been approved.
- b. Know what form is needed to file. It can usually be done electronically now, but if you make less than \$50,000 a year, you only need to file a quick postcard that says you are still in business.
- c. If you make money from the public (outside of your membership) you must use that money to support the public, not your membership or your organization. (except what is needed to pay your overhead to support your mission to support the public – rent, employees, taxes, etc).

State:

- a. Find out what is needed to file each year and what is needed to remain compliant with your state laws.
- b. Be sure to follow state laws for any employees you may have.

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